

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 32**

TRACY LOGISTICS, LLC

Employer

and

Case 32-RC-239366

TEAMSTERS LOCAL 439

Petitioner

DECISION AND DIRECTION OF ELECTION

Tracy Logistics, LLC (the Employer) operates a grocery distribution center at its warehouse facility located in Stockton, California. The Teamsters Local 439 (Petitioner) currently represents a bargaining unit of approximately 442 warehouse, clerical, sanitation, maintenance, and auditor employees who work at the Employer's Stockton facility. The collective-bargaining agreement between the Employer and the Petitioner covering these employees is effective from May 31, 2016 to May 31, 2021.

The Petitioner seeks a self-determination election under the Board's *Armour-Globe*¹ doctrine to add a lone pest control sanitation worker employed at the Employer's Stockton facility to the existing unit.

The Employer maintains that the pest control sanitation worker does not share a community of interest with the employees in the existing bargaining unit and shares more of a community of interest with non-represented produce inspectors, perishable inspectors, and claims investigation administration clerks. The Petitioner contends that the pest control sanitation worker shares a sufficient community of interest with the employees in the existing unit, and; if not permitted to vote in a self-determination election, would constitute a residual unit and be denied an opportunity to be represented for collective bargaining.

A hearing officer of the Board held a hearing in this matter in which the Petitioner made an oral argument and the Employer submitted a position statement, Employer Exhibit 5, in lieu of oral argument with no objections from the Petitioner, which have been duly considered. As explained below, based on the record and relevant Board law, I find that the pest control sanitation worker possesses a sufficient community of interest with the existing bargaining unit to vote in a self-determination election as to whether to be included in that unit.

THE EMPLOYER'S OPERATION

The Employer operates a 750,000-sq. ft. warehouse and grocery distribution facility in Stockton, California. The Stockton facility consists of three buildings, a grocery distribution

¹ *Armour & Co.*, 40 NLRB 1333 (1942), and *Globe Machine Stamping Co.*, 3 NLRB 294 (1937).

center, perishable distribution center, and tenant warehouse. The Employer receives grocery products, produce, and perishable goods at its Stockton facility, where they are sorted and warehoused, and fulfills orders by compiling pallets of selected products for delivery to customers by third-party drivers.

The Employer is a division of C&S Wholesale Grocers, its parent company, which also operates a sales office in Rancho Cordova, California, a facility in Fresno, California, and a facility in Sacramento, California, which is owned by a separate company, Sacramento Logistics, LLC. The Petitioner is not alleging any joint-employer relationship. The highest-ranking manager at the Stockton facility is General Manager Michael Garcia, then Operations Manager Jose Juarez, shift managers, and frontline supervisors.

The Petitioner currently represents a bargaining unit of approximately 442 warehouse, clerical, sanitation, maintenance, and auditor employees who work at the Employer's Stockton facility. This unit includes various job classifications, including forklift operators, order selectors/pickers, loaders, receivers/unloaders, inventory control clerks, OS&D clerks (over, shorts, and damages clerks), produce clerks, porters, auditors, and maintenance workers. Additional non-represented employees work at the Employer's Stockton facility as well, including three produce inspectors, one perishable inspector, two claims investigation administration clerks, six buyers, one process quality analyst, one slotter, and one pest control sanitation worker—the subject of the instant Petition.

BOARD LAW

The applicable standard for evaluating the appropriateness of adding additional employees to a preexisting bargaining unit is the Board's *Armour-Globe* doctrine. Under the *Armour-Globe* doctrine, employees sharing a community of interest with an already represented unit of employees may vote whether they wish to be included in the existing bargaining unit. *NLRB v. Raytheon Co.*, 918 F.2d 249, 251 (1st Cir. 1990). An incumbent union may petition to add unrepresented employees to its existing unit through an *Armour-Globe* election if the employees sought to be included share a community of interest with unit employees and “constitute an identifiable, distinct segment so as to constitute an appropriate voting group.” *Warner-Lambert Co.*, 298 NLRB 993, 995 (1990).

It is well established that a certifiable unit need only be an appropriate unit, not the most appropriate unit. *International Bedding Company*, 356 NLRB No. 168, slip op. at 2 (2011), citing *Morand Bros. Beverage Co.*, 91 NLRB 409, 418 (1950), *enfd.* 190 F.2d 576 (7th Cir. 1951). See also *Overnite Transportation Co.*, 322 NLRB 723, at 723 (1996) (the unit sought need not be the ultimate, or the only, or even the most appropriate unit). “If [the petitioned-for] unit is appropriate, then the inquiry into the appropriate unit ends.” *Boeing Co.*, 337 NLRB 152, 153 (2001).

When deciding whether the unit sought in a petition is appropriate, the Board focuses on whether the employees share a “community of interest.” *NLRB v. Action Automotive*, 469 U.S. 490, 494 (1985). The Board looks to a variety of factors to determine whether a community of interest exists, including the nature of employee skills and functions; common supervision; the

degree of functional integration; interchangeability and contact among employees; work sites; general working conditions and fringe benefits; and bargaining history. *International Bedding Company*, supra, slip op. at 2; *Boeing Co.*, supra at 153; *NLRB v. Paper Mfrs. Co.*, 786 F.2d 163, 167 (3rd Cir. 1984); *Rinker Materials Corp.*, 294 NLRB 738, 738-739 (1989). The petitioner's position regarding the scope of the unit is also a relevant consideration. *International Bedding Company*, supra, citing *Marks Oxygen Co.*, 147 NLRB 228, 230 (1964); *E.H. Koester Bakery & Co.*, 136 NLRB 1006, 1012 (1962). However, that issue is not dispositive with regard to what constitutes an appropriate unit, and certain proposed units, such as those based on an arbitrary, heterogeneous, or artificial grouping of employees will be found to be inappropriate. See *Moore Business Forms, Inc.*, 204 NLRB 552, 553 (1973).

It is well established that interchangeability refers to temporary work assignments or transfers between two groups of employees. Frequent interchange "may suggest blurred departmental lines and a truly fluid work force with roughly comparable skills." *Hilton Hotel Corp.*, 287 NLRB 359, 360 (1987). As a result, the Board has held that the frequency of employee interchange is a critical factor in determining whether employees who work in different groups share a community of interest sufficient to justify their inclusion in a single bargaining unit. *Executive Resource Associates*, 301 NLRB 400, 401 (1991), citing *Spring City Knitting Co. v. NLRB*, 647 F.2d 1011, 1015 (9th Cir. 1081). Also relevant to our inquiry is the amount of work-related contact among employees. Thus, it is important to compare the amount of contact employees in the unit sought by a union have with one another. See *Casino Aztar*, 349 NLRB 603, 605-606 (2007).

The Board has found that, in examining supervision, most important is the identity of employees' supervisors who have the authority to hire, to fire or to discipline employees or to supervise the day-to-day work of employees, including rating performance, directing and assigning work, scheduling work, and providing guidance on a day-to-day basis. *Executive Resources Associates*, supra at 402; *NCR Corporation*, 236 NLRB 215 (1978). Common supervision weighs in favor of placing the employees in dispute in one unit. However, the fact that two groups are commonly supervised does not mandate that they be included in the same unit, particularly where there is no evidence of interchange, contact or functional integration. *United Operations*, supra at 125. Similarly, the fact that two groups of employees are separately supervised weighs in favor of finding against their inclusion in the same unit. However, separate supervision does not mandate separate units. *Casino Aztar*, supra at 607, fn 11. Rather, more important is the degree of interchange, contact, and functional integration. *Id.* at 607. Where there is evidence of similar terms and conditions of employment and some functional integration, evidence of similar skills and functions can lead to a conclusion that disputed employees must be in the same unit, in spite of lack of common supervision or evidence of interchange. *Phoenician*, 308 NLRB 826 (1992).

APPLICATION OF BOARD LAW TO THE FACTS OF THIS CASE

The Petitioner argues that if the pest control sanitation worker were not to be included in the existing unit, he would constitute a one-person residual unit and would be foreclosed from exercising his Section 7 right to representation. See *Klochko Equip. Rental, Co. Inc.*, 361 NLRB No. 49 (2014); *Vecellio & Grogan*, 231 NLRB 136, 136-137 (1977); *Victor Industries Corp. of*

California, 215 NLRB 48, 49 (1974). The evidence does not establish that the pest control sanitation worker would necessarily be left in a one-person residual unit and precluded from his right to representation for the purposes of collective bargaining if the petitioned-for unit were not found to be appropriate. To the contrary, the record reveals that other non-represented employees work at the Employer's Stockton facility. However, we need not reach a determination on this matter in this case, as the issue at hand is whether or not the pest control sanitation worker shares a sufficient community of interest with the existing unit to deem it an appropriate unit. For the reasons explained below, I find that the proposed voting group shares a community of interest with the existing unit of employees.

The Employer argues that the pest control sanitation worker shares a greater community of interest with the non-unit perishable inspector, produce inspector, and claims administration investigation clerks, than the employees in the existing unit. However, the Employer does not argue that the pest control sanitation worker shares an overwhelming community of interest with the non-unit employees, nor is there evidence in the record to support such a position. Moreover, the Employer is not seeking a larger unit than the petitioned-for unit. As such, we need not apply the Board's analysis in *Odwalla, Inc.*, 357 NLRB No. 132 (2011) to the instant case.²

The inquiry here is only whether the Petitioner has established that the pest control sanitation worker shares a community of interest with the existing unit such that it would be an appropriate unit—not that it is the most appropriate unit or the only unit. See *Overnight Transportation Co.*, supra, at 723; *Boeing Co.*, supra, at 153.

As such, for the reasons explained below, I find that the pest control sanitation worker shares a community of interest with unit employees and constitutes an identifiable, distinct segment so as to comprise an appropriate voting group under the Board's *Armour-Globe* doctrine.

² Even if the Employer were seeking a larger unit than the petitioned-for unit, it has not carried its burden to demonstrate an overwhelming community of interest exists. The record evidence reveals that the pest control sanitation worker has a cubicle in an office area with the non-unit produce inspectors, claims administration investigators, and perishable inspector, but does not share common supervision, employee interchange, or any work-related contacts with these employees other than sitting in the same office area. Produce inspectors spend most of their time on the dock, inspecting produce coming into receiving and administering ripening agent gases in the facility's banana rooms. The perishable inspector essentially remains in the office reviewing code date reports to ensure perishables do not go past date and assists in substituting products for different customers. Claims investigation administration clerks are charged with investigating claims from retailers, which involves spending most of their time in their office, often watching hours of video footage. Unlike the pest control sanitation worker who spends most of his time in the warehouse, claims investigation administration clerks spend only roughly 10% of their time in the warehouse and essentially have no interchange with unit employees.

Thus, even if the Board's analysis in *Odwalla* were to apply to the facts of the instant case, it would not change the outcome here, as the record does not establish that the pest control sanitation worker shares an overwhelming community of interest with the non-represented employees identified by the Employer. While in *Odwalla*, no rational basis existed to support drawing the line between employees that were included and excluded in the unit, here the Petitioner has shown that a rational basis exists to include the pest control sanitation worker in the existing bargaining unit as he shares a sufficient community interest with the existing unit.

Nature of Employee Skills and Functions

The record establishes that the pest control sanitation position, held by Ozzie Jose, involves special skills and functions, distinct from those of the other unit employees. Jose is responsible for aspects of food safety and quality by ensuring there are no pest infestations that would damage product. Jose is the sole individual responsible for maintaining rodent traps or “tin cats” located along the inside perimeter of the Stockton facility. He conducts weekly walkthroughs to observe the roughly 368 tin cats located on the interior perimeter of the facility, inspecting them for damage or pest activity, cleaning and replacing their glue boards, replacing traps as needed, and including this information in a weekly report. Jose is also responsible for a weekly inspection of the pheromone traps, which attract insects, located throughout the aisles in the warehouse. He conducts daily walkthroughs to check for conditions that could potentially create food safety problems, including signs of eating and drinking, grain-based products or pet foods on the floor, or objects on the white line along the perimeter of the warehouse, which could be in the path of rodents. Unit employees can also report similar food safety problems.

Jose has certifications and trainings for his position, including a Hazardous and Critical Control Point (HACCP) certification and Safe Quality Food (SQF) auditing certification, which distinguish him from unit employees. In addition, several times a year, Jose presents his files, including pest control logs, shipping documents, receiving documents, and training records, to third-party auditors. He is the only employee who participates in such third-party audits.

If a pest issue is brought to Jose’s attention that could potentially lead to a more serious issue, he includes this in his weekly trend reports he sends via email to General Manager Garcia, Operations Manager Juarez, Shift Manager Ky Chhoeut, and Regional Food Safety Manager Marion Abbs, who works out of the Fresno facility.

While Jose is responsible for different tasks than those of other employees, significant differences also exist between the skills and functions of different classifications of employees in the existing unit. For instance, forklift operators share a very different skillset than the inventory control clerks, produce clerks, and maintenance employees. Produce clerks perform office work exclusively, communicating with customers and taking orders, while most unit employees spend the majority of their time in the warehouse. The maintenance employees’ work involves a high degree of skill, distinct from other unit work, as exhibited by their potential for higher hourly wages than other unit employees as reflected in the collective-bargaining agreement. Forklift operators require certain certifications required by the state to operate forklifts. These unit employees use different equipment, have different skills, and perform distinct functions.

In addition, there is some overlap between Jose’s job duties and functions and those of certain unit employees. General Manager Garcia’s testimony revealed that a number of unit employees can also be involved with pest infestations, including receivers, order selectors, forklift operators, porters, and inventory control clerks. For example, if a customer discovered an infestation, the product would be returned to the warehouse by a third-party carrier, unloaded, and assessed. OS&D clerks would make a record of the product that was returned and be involved in moving it to quarantine outside the facility. Receivers might be involved if they detected an infestation in a product upon delivery. Order selectors could discover a pest

infestation while picking orders for a customer. Auditors might also discover an infestation when checking a pallet before shipment to a customer. Inventory control clerks would be involved in the removal of any infested product from inventory.

Jose's job duties also involve recordkeeping, including creating, maintaining, and filing records for the Employer. Jose generates pest control records and keeps on file numerous records he doesn't generate, including training logs, pest control outside service logs, HACCP inspection documents, and food safety documents updated by the corporate office located in Keene, New Hampshire. In this regard, his work involves a good deal of paperwork and recordkeeping, somewhat similar to the clerical work of unit employee auditors, produce clerks, OS&D clerks, and inventory control clerks.

While the record evidence shows that some of Jose's job duties, skills, and functions distinguish him from those of the existing unit, various classifications of unit employees also have distinctive duties, skills, and functions. In addition, the record reflects some overlap between Jose's job functions and those of unit employees. Both Jose and unit employees can detect, report, and make a record of pest infestations and issues at the facility, and both Jose and unit employees manage records and perform clerk work. As such, I do not find that this factor weighs against finding a community of interest exists.

Employee Interchange and Work-Related Contact Among Employees

There is no evidence in the record establishing interchange or transfers between Jose and unit employees. However, the record does reveal substantial work-related contact between Jose and employees in the existing unit.

While there is evidence in the record of interchange between warehouse employees in the existing unit, there is no evidence of interchange between numerous classifications of unit employees such as maintenance employees, auditors, forklift operators, and produce clerks. For instance, produce clerks spend most of their time in an office communicating with customers, inputting orders, and communicating with non-unit produce inspectors. Maintenance employees work out of a separate maintenance office, and their responsibilities include repairing forklifts and maintaining the plumbing throughout the facility. As such, due to their distinct skillsets and functions, there is no record evidence of interchange between a number of the classifications in the existing unit.

The record evidence shows that there is significant work-related contact between Jose and unit employees. General Manager Garcia testified that if a pest issue or infestation is uncovered by a unit employee order selector, for example, the order selector would typically report it to a supervisor who would then inform Jose. If Jose receives a complaint of an infestation, he receives an email with an item number, and takes that information to a unit employee inventory clerk, who then pulls the location of the item and provides that information to Jose. After locating the issue, Jose then makes a recommendation as to how to clean up and treat the product. Jose typically informs a supervisor of his recommendation who asks a unit employee porter to clean up the affected area. Porters are responsible for removing damaged product, cleaning affected areas, and maintaining the cleanliness of the building. Jose might also

inform a supervisor in this situation that he needs the assistance of a forklift operator to help move items to assist in his inspection. Under these circumstances, Jose would be paired with a forklift operator who would move items for Jose's inspection. Jose would then inform the forklift operator whether he needs to leave the items out or return them to their initial location. On occasion, Jose has to inspect a trailer with a supervisor or unit employee unloader/receiver if he receives a report of an infestation.

If Jose identifies an item along the perimeter of the building on the border that could block the path of rodents and create a potential problem, he notifies a supervisor and a porter clears the item. However, Jose could also notify a porter directly to clean up the area or remove the item along the perimeter.

When Jose conducts his walkthrough inspections, he walks along the perimeter of the facility or in between the aisles on the warehouse floor in areas where most of the unit employees perform much of their work. Jose spends roughly 80% of his worktime, four days a week, in the warehouse.

The record establishes that if unit employees discover a pest infestation or potential issue, they typically report it to a supervisor, who then notifies Jose. This involves Jose working with unit employees, such as inventory control clerks (to locate the problem), unit forklift operators (to move items in the area to aid in his inspection), and potentially with unit employee porters (to clean up the area). The record reflects that porters can also assist Jose in removing an item to quarantine, an area outside the warehouse, after which unit employee inventory control clerks need to be notified to remove the item from inventory and accurately record which product was "damaged out" in the system. Jose notifies inventory control supervisors of issues that require product to be moved to quarantine, and goes in and out of the quarantine areas, as do other unit employees.

As such, I find that despite the lack of record evidence of employee transfers and interchange, the record reveals evidence of significant work-related contact among Jose and unit employees so as to weigh in favor of finding a community of interest exists.

Degree of Functional Integration

When product arrives at the Stockton facility, it is unloaded by unit employee unloaders/receivers or third-party drivers and unloaders. After the product is unloaded, unit employee forklift operators move the product to designated locations where product is stored on pallets in aisles throughout the facility. When the Employer needs to fill a customer order, unit employee order pickers/selectors locate product for selection, compile product on a pallet load for the customer, and the order is returned to the dock for shipment. Auditors inspect pallets for outbound shipments for accuracy and quality. If an auditor finds a damaged product, they report it to a supervisor in order to replace the product.

When product is returned from a retailer for being over, short, or damaged, unit employee OS&D clerks are dispatched to determine what to do with the product, for instance whether it should be returned to stock or damaged out and removed from inventory. If a product has a

quality issue, it is referred to inventory control clerks to determine if the product should be removed from inventory. Inventory control clerks are also responsible for informing the Employer when 30-day reports indicate products are due to expire.

Unit employees check the temperature of all trucks containing perishables when they arrive at the Stockton facility. The temperature data for seafood deliveries are recorded with the bill of lading, which Jose collects from a supervisor and stores in his HACCP records.

As described above, if Jose receives a complaint of an infestation, he must first find the location of the issue by contacting a unit employee inventory clerk. After investigating the issue, a unit employee porter would need to clean the affected area. Depending on the issue, a forklift operator might also need to be involved to move items to assist Jose's inspection. OS&D clerks, inventory control clerks, and porters might be involved in moving a product Jose identifies as infested to quarantine. Jose might also work with unloaders/receivers to inspect a trailer with a reported infestation.

The work of the pest control sanitation worker and unit employees constitute integral elements of the Employer's business of receiving, storing, inspecting, and shipping grocery products to customers. Without the unit employees, Jose could not complete his work. Likewise, if Jose did not complete his work inspecting and managing pest infestations, product quality and food safety would be compromised, affecting the work of employees in the existing unit. Many of Jose's job duties are integrated with those of unit employees. They function together to ensure the quality and safety of food being received, stored, and shipped out from the facility. As such, I find that the record reveals a high degree of functional integration weighing in favor of finding a community of interest.

Common Supervision

The record is not completely clear as to where Jose fits in the Employer's organizational structure and who his direct supervisor is. It appears that at least some of the confusion stems from the fact that Jose performs his daily functions with a high degree of independence. The Employer states that Jose reports to an entire separate team located outside the Employer's premises while the bargaining unit members report to the local, lower level departmental supervisors. Specifically, the record establishes that Jose reports to Regional Food Safety Manager Abbs who is based at the Fresno location, while Stockton based General Manager Garcia conducted his last annual evaluation. While Jose has limited in-person contact with Abbs, he sends Abbs monthly food and safety audits and weekly aisle reports based on his walkthroughs. Jose also sends reports electronically to the regional food safety team located in Fresno, California, as well as the food safety team located in Keene, New Hampshire. While Jose does interact with frontline supervisors of unit employees at the Stockton facility, he is not under their direct supervision. With respect to personnel matters such as vacation requests, Jose uses the same channel as bargaining unit employees, an app called "workday." Those vacation requests are approved by Garcia. In view of these facts, I have concluded that Jose is at least partially supervised by Garcia and, therefore, not removed from the organizational structure in Stockton. As such, I find that this factor does not weigh against or in favor of finding that a community of interest exists.

General Working Conditions

Jose shares the same working conditions as employees in the existing unit. Jose is governed by the same employee handbook as the unit employees; works from 5am-1:30pm (the same shift as a number of unit employees); shares the same lunchroom with unit employees, managers, and supervisors; uses the same break room as unit and non-unit employees; spends most of his worktime in the warehouse with most unit employees; and is paid hourly as are unit and non-unit employees. However, unit employees regularly attend meetings on safety, which Jose does not attend. Jose also punches into the same time clocks as unit employees and non-unit employees, located throughout the warehouse. All employees are required to wear safety shoes, as is Jose. All non-unit employees in the warehouse, including Jose, have a separate healthcare plan than unit employees, due to the application of the collective-bargaining agreement to unit employees. I find that this weighs in favor of finding that a community of interest exists.

Work Sites

The employees in the existing unit work exclusively at the Employer's Stockton facility, while Jose travels to Sacramento roughly one day a week to work for Sacramento Logistics, LLC, and occasionally travels to a Rancho Cordova sales facility. Jose works at the Employer's Stockton facility roughly four days a week. When Jose travels to Sacramento, he performs the same work as at the Stockton facility, albeit working for a different employer, Sacramento Logistics, LLC. However, Jose is paid for this time and travel time by the Employer. As such, I find that this factor weighs against finding that a community of interest exists.

After examining the record as a whole and weighing the factors above, I have concluded that the similarity in employee skills and functions appears to be a neutral factor in this case. The lack of common supervision and work sites weigh against finding a community of interest. However, the evidence of regular work-related contact and a high degree of functional integration between the pest control sanitation worker and the existing unit employees weighs in favor of finding a community of interest. In addition, similar terms general working conditions weigh somewhat in favor of finding a community of interest. Accordingly, on balance, I find that there is a sufficient community of interest between the pest control sanitation worker and employees in the existing unit to allow the proposed voting group to be included in the existing bargaining unit. The proposed voting group constitutes an identifiable, distinct segment of the Employer's employees, and I conclude that the petitioned-for voting group is appropriate.

CONCLUSION

I have carefully weighed the record evidence and the arguments of the parties, and I conclude that it is appropriate to hold a self-determination election in the petitioned-for voting group. Based upon the entire record in this matter and in accordance with the discussion above, I conclude and find as follows:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of Section 2(6) and (7) of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.³
3. The Petitioner is a labor organization within the meaning of Section 2(5) of the Act.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The following employees of the Employer constitute a unit appropriate for a self-determination election:

Pest control sanitation worker employed by the Employer at its facility located at 4199 Gibraltar Court, Stockton, California, excluding all office clerical employees, guards, managers, and supervisors as defined in the Act.

DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election in the unit found appropriate above.

The ballot will ask:

Do you wish to be represented for purposes of collective bargaining by TEAMSTERS LOCAL 439?

If a majority of valid ballots are cast for the Petitioner, they will be taken to have indicated the employees' (or employee) desire to be included in the existing unit of employees currently represented by TEAMSTERS LOCAL 439. If a majority of the valid ballots are not cast for representation, they will be taken to have indicated that the employees (or employee) in the voting unit desire to remain unrepresented.

³ The parties stipulated that the Employer, a Delaware limited liability corporation, with places of business located in Stockton, California; is engaged in the business of warehousing and distribution of groceries and related merchandise; and, during the past twelve months the Employer has purchased and received goods valued in excess of \$50,000 from suppliers located outside the State of California.

A. Election Details

The election will be held on Wednesday May 22, from 12:00 noon to 12:30 p.m. at 4199 Gibraltar Court, Stockton, California.

B. Voting Eligibility

Eligible to vote are those in the unit who were employed during the payroll period ending **May 11, 2019**, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off.

Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

C. Voter List

As required by Section 102.67(l) of the Board's Rules and Regulations, the Employer must provide the Regional Director and parties named in this decision a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters.

To be timely filed and served, the list must be *received* by the regional director and the parties by May 15, 2019. The list must be accompanied by a certificate of service showing service on all parties. **The region will no longer serve the voter list.**

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015.

When feasible, the list shall be filed electronically with the Region and served electronically on the other parties named in this decision. The list may be electronically filed with the Region by using the E-filing system on the Agency's website at www.nlr.gov. Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions.

Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

D. Posting of Notices of Election

Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Notice of Election accompanying this Decision in conspicuous places, including all places where notices to employees in the unit found appropriate are customarily posted. The Notice must be posted so all pages of the Notice are simultaneously visible. In addition, if the Employer customarily communicates electronically with some or all of the employees in the unit found appropriate, the Employer must also distribute the Notice of Election electronically to those employees. The Employer must post copies of the Notice at least 3 full working days prior to 12:01 a.m. of the day of the election and copies must remain posted until the end of the election. For purposes of posting, working day means an entire 24-hour period excluding Saturdays, Sundays, and holidays. However, a party shall be estopped from objecting to the nonposting of notices if it is responsible for the nonposting, and likewise shall be estopped from objecting to the nondistribution of notices if it is responsible for the nondistribution. Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.

RIGHT TO REQUEST REVIEW

Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this Decision until 14 days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is not precluded from filing a request for review of this decision after the election on the grounds that it did not file a request for review of this Decision prior to the election. The request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

A request for review may be E-Filed through the Agency's website but may not be filed by facsimile. To E-File the request for review, go to www.nlr.gov, select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001. A party filing a request for review must

serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board.

DATED AT Oakland, California this 13th day of May 2019.

/s/ Valerie Hardy-Mahoney

Valerie Hardy-Mahoney
Regional Director
National Labor Relations Board
Region 32
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